

PART 410—TRIBALLY CONTROLLED POSTSECONDARY VOCATIONAL INSTITUTIONS PROGRAM

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AUTHORITY: 20 U.S.C. 2397–2397h, unless otherwise noted.

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Subpart A—General

§ 410.1 What is the Tribally Controlled Postsecondary Vocational Institutions Program?

The Tribally Controlled Postsecondary Vocational Institutions Program provides grants for the operation and improvement of tribally controlled postsecondary vocational institutions to ensure continued and expanded educational opportunities for Indian students, and to allow for the improve-

ment and expansion of the physical resources of those institutions.

(Authority: 20 U.S.C. 2397 and 2397c)

§ 410.2 Who is eligible for an award?

A tribally controlled postsecondary vocational institution is eligible for assistance under this part if it—

(a) Is governed by a board of directors or trustees, a majority of whom are Indians;

(b) Demonstrates adherence to stated goals, a philosophy, or a plan of operation that fosters individual Indian economic and self-sufficiency opportunity, including programs that are appropriate to stated tribal goals of developing individual entrepreneurship and self-sustaining economic infrastructures on reservations;

(c) Has been in operation for at least three years;

(d) Holds accreditation with or is a candidate for accreditation by a nationally recognized accrediting authority for postsecondary vocational education; and

(e) Enrolls the full-time equivalency of not fewer than 100 students, of whom a majority are Indians.

(Authority: 20 U.S.C. 2397b)

§ 410.3 What activities may the Secretary fund?

The Secretary provides grants for basic support for the education and training of Indian students, including—

(a) Training costs;

(b) Educational costs;

(c) Equipment costs;

(d) Administrative costs; and

(e) Costs of operation and maintenance of the institution.

(Authority: 20 U.S.C. 2397a)

§ 410.4 What regulations apply?

The following regulations apply to the Tribally Controlled Postsecondary Vocational Institutions Program:

(a) The regulations in this part 410.

(b) The regulations in 34 CFR part 400.

(Authority: 20 U.S.C. 2397–2397h)

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§ 410.5 What definitions apply?

(a) The definitions in 34 CFR 400.4 apply to this part, except for the definition of the term *Act*.

(b) The following definitions also apply to this part:

Act means the Tribally Controlled Vocational Institutions Support Act of 1990.

Indian means a person who is a member of an Indian tribe.

Indian student count means a number equal to the total number of Indian students enrolled in each tribally controlled vocational institution, determined as follows:

(1) The registrations of Indian students as in effect on October 1 of each year.

(2) Credits or clock hours toward a certificate earned in classes offered during a summer term must be counted toward the computation of the Indian student count in the succeeding fall term.

(3) Credits or clock hours toward a certificate earned in classes during a summer term must be counted toward the computation of the Indian student count if the institution at which the student is in attendance has established criteria for the admission of the student on the basis of the student's ability to benefit from the education or training offered. The institution is presumed to have established those criteria if the admission procedures for those studies include counseling or testing that measures the student's aptitude to successfully complete the course in which the student has enrolled. Credit earned by the student for purposes of obtaining a high school degree or its equivalent may not be counted toward the computation of the Indian student count.

(4) Indian students earning credits in any continuing education program of a tribally controlled vocational institution must be included in determining the sum of all credit or clock hours.

(5) Credits or clock hours earned in a continuing education program must be converted to the basis that is in accordance with the institution's system for providing credit for participation in those programs.

Indian tribe means any Indian tribe, band, nation, or other organized group

or community, including any Alaskan native village or regional or village corporation as defined in or established pursuant to the Alaskan Native Claims Settlement Act (43 U.S.C. 1601 *et seq.*), that is federally recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

Tribally controlled postsecondary vocational institution means an institution of higher education that is formally controlled, or has been formally sanctioned or chartered by the governing body of an Indian tribe or tribes, and that offers technical degrees or certificate granting programs. This term does not include an institution that is a tribally controlled community college as defined in 34 CFR 400.4. (See Cong. Rec. S4116 (daily ed. April 5, 1990) (Statement of Senator Bingaman); Cong. Rec. H1708 (daily ed. May 9, 1989) (Statement of Rep. Richardson)).

(Authority: 20 U.S.C. 2397h and 25 U.S.C. 1801 (1) and (2))

Subpart B—How Does One Apply for an Award?

§ 410.10 What must an application contain?

(a) An application for a grant under the Tribally Controlled Postsecondary Vocational Institutions Program must include the following:

(1) Documentation showing that the institution is eligible according to the requirements in § 410.2.

(2) A description of the fiscal control and fund accounting procedures to be used for all funds received under this program that will allow the Secretary to monitor expenditures and the Education Department Inspector General, the U.S. Comptroller General, or an independent non-Federal auditor to audit the institution's programs.

(3) The institution's operating expenses for the preceding fiscal year, including allowable expenses listed in § 410.30.

(4) The institution's Indian student count.

(b) An application for an institutional support grant must also contain a comprehensive development plan addressing the following:

(1) The institutional mission statement, i.e., a broad statement of purpose, that identifies the institution's distinguishing characteristics, including the characteristics of the students the institution serves and plans to serve and the programs of study it offers and proposes to offer.

(2) Data for the past three academic years reflecting the number and required qualifications of the teaching and administrative staff, the number of students enrolled, attendance rates, dropout rates, graduation rates, rate of job placement or college enrollment after graduation, and the most significant scholastic problems affecting the student population.

(3) A description of how the institution is responsive to the current and projected labor market needs in its geographic area, including the institution's plans for placement of students.

(4) Assumptions concerning the institutional environment, the potential number of students to be served, enrollment trends, and economic factors that could affect the institution.

(5) Major problems or deficiencies that inhibit the institution from realizing its mission.

(6) Long-range and short-range goals that will chart the growth and development of the institution and address the problems identified under paragraph (b)(5) of this section.

(7) Measurable objectives related to reaching each goal.

(8) Time-frames for achieving the goals and objectives described in paragraphs (b)(6) and (7) of this section.

(9) Priorities for implementing improvements concerning instructional and student support, capital expenditures, equipment, and other priority areas.

(10) Major resource requirements necessary to achieve the institution's goals and objectives, including personnel, finances, equipment, and facilities.

(11) A detailed budget identifying the costs to be paid with a grant under this program and resources available from other Federal, State, and local sources that will be used to achieve the institution's goals and objectives. Budget and cost information must be sufficiently detailed to enable the Secretary to de-

termine the amount of payments pursuant to section 386(b)(2) of the Act. The statement must include information on allowable expenses listed in §410.30.

(12) Strategies and resources for objectively evaluating the institution's progress towards, and success in, achieving its goals and objectives.

(Approved by the Office of Management and Budget under Control No. 1830-0013)

(Authority: 20 U.S.C. 2397b, 2397c(a), 2397d(b)(2)(B), and 2397f)

Subpart C—How Does the Secretary Make an Award?

§410.20 How does the Secretary apply the selection criteria in §410.21?

(a) The Secretary evaluates an application on the basis of the criteria in §410.21.

(b) The Secretary may award up to 100 points, including a reserved 15 points to be distributed in accordance with paragraph (d) of this section, based on the criteria in §410.21.

(c) Subject to paragraph (d) of this section, the maximum possible score for each criterion in §410.21 is indicated in parentheses after the heading for each criterion.

(d) For each competition as announced through a notice published in the FEDERAL REGISTER, the Secretary may assign the reserved points among the criteria in §410.21.

(Authority: 20 U.S.C. 2397-2397h)

§410.21 What selection criteria does the Secretary use for institutional support grants?

The Secretary uses the following criteria to evaluate an application for an institutional support grant:

(a) *Institutional goals and objectives.* (10 points) The Secretary reviews each application to determine the extent to which the applicant's current and future institutional goals and objectives are—

(1) Realistic and defined in terms of measurable results; and

(2) Directly related to the problems to be solved.

(b) *Comprehensive development plan.* (25 points) The Secretary reviews each application to determine the extent to

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which the plan is effectively designed to meet the applicant's current and future institutional goals and objectives, including instructional and student support needs, and equipment and capital requirements.

(c) *Implementation strategy.* (20 points) The Secretary reviews each application to determine the extent to which an applicant's implementation strategy—

(1) For each major activity funded under this program, is comprehensive and likely to be effective, taking into account the applicant's past performance and the data for the past three academic years reflecting the number and required qualifications of the teaching and administrative staff, the number of students enrolled, attendance rates, dropout rates, graduation rates, rate of job placement or college enrollment after graduation, and the most significant scholastic problems affecting the student population;

(2) Includes a realistic timetable for each such activity; and

(3) Includes a staff management plan likely to ensure effective administration of the project activities.

(d) *Budget and cost effectiveness.* (20 points) The Secretary reviews each application to determine the extent to which—

(1) The budget is adequate to support the proposed activities to be funded under this program, including capital expenditures and acquisition of equipment, if applicable;

(2) Costs are necessary and reasonable in relation to similar activities the institution carried out in previous years; and

(3) The budget narrative justifies the expenditures.

(e) *Evaluation plan.* (10 points) The Secretary reviews each application to determine the quality of the evaluation plan the institution plans to use to determine its progress towards, and success in, achieving its goals and objectives, including the extent to which—

(1) The plan identifies, at a minimum, types of data to be collected, expected outcomes, and how those outcomes will be measured;

(2) The methods of evaluation are appropriate and, to the extent possible, are objective and produce data that are quantifiable; and

(3) The methods of evaluation provide periodic data that can be used for ongoing program improvement.

(Approved by the Office of Management and Budget under Control No. 1830-0013)

(Authority: 20 U.S.C. 2397-2397h)

§ 410.22 What additional factors does the Secretary consider?

(a) After evaluating applications according to the criteria in § 410.21 and consulting, to the extent practicable, with boards of trustees and the tribal governments chartering the institutions being considered, the Secretary determines whether the most highly rated applications are equitably distributed among Indian tribes.

(b) The Secretary may select other applications for funding if doing so would improve the distribution of projects among Indian tribes.

(c) In addition to the criteria in § 410.21, the Secretary considers whether funding a particular applicant duplicates an effort already being made.

(Authority: 20 U.S.C. 2397-2397h)

§ 410.23 How does the Secretary select grantees for institutional support grants?

(a) The Secretary selects at least two eligible applicants for funding.

(b) If only one or two applicants are eligible, the Secretary selects each eligible applicant. The amount of each grant is determined by the quality of the application, based on the selection criteria in § 410.22, and the respective needs of the applicants.

(c) If there are more than two eligible applicants, the Secretary ranks each application using the selection criteria in § 410.22. The Secretary funds two or more applicants. The number of grants made and the amount of each grant is determined by taking into account the quality of the applications and the respective needs of the applicants.

(d) For fiscal years subsequent to the first year of funding, the Secretary follows the procedure in paragraphs (a) through (c) of this section, except that if appropriations for that fiscal year are not sufficient to pay in full the total amount that approved applicants are eligible to receive, the Secretary

allocates the available grant amounts as required by section 388(a) of the Act.

(Authority: 20 U.S.C. 2397c(b))

§ 410.24 How does the Secretary award additional grants?

If funds remain after providing grants to all eligible institutions, the Secretary makes awards as follows:

(a) The Secretary allocates funds to institutions receiving their first grant under this part in an amount equal to the training equipment costs necessary to implement training programs.

(b) If funds remain after the Secretary makes awards under paragraph (a) of this section, the Secretary reviews training equipment needs at each institution receiving assistance under this part at the end of the five-year period beginning on the first day of the first year for which the institution received a grant under this part, and provides allocations for other training equipment needs if it is demonstrated by the institution that its training equipment has become obsolete for its purposes, or that the development of other training programs is appropriate.

(Authority: 20 U.S.C. 2397d(d))

Subpart D—What Conditions Must Be Met After an Award?

§ 410.30 What expenses are allowable under an institutional support grant?

An institutional support grant may only be used to pay expenses associated with the following:

(a) The maintenance and operation of the program, including—

- (1) Development costs;
- (2) Costs of basic and special instruction, including special programs for individuals with disabilities and academic instruction;
- (3) Materials;
- (4) Student costs;
- (5) Administrative expenses;
- (6) Boarding costs;
- (7) Transportation;
- (8) Student services;
- (9) Day care and family support programs for students and their families, including contributions to the costs of education for dependents; and

(10) Training equipment costs necessary to implement training programs.

(b) Capital expenditures, including operations and maintenance, minor improvements and repair, and physical plant maintenance costs.

(c) Costs associated with repair, upkeep, replacement, and upgrading of instructional equipment.

(Authority: 20 U.S.C. 2397d(a), (d))

§ 410.31 What other provisions apply to this program?

(a) Except as specifically provided in the Act, eligibility for assistance under this part may not preclude any tribally controlled postsecondary vocational institution from receiving Federal financial assistance under any program authorized under the Higher Education Act of 1965 (20 U.S.C. 1001 *et seq.*) or any other applicable program for the benefit of institutions of higher education or vocational education.

(b) No tribally controlled postsecondary vocational institution for which an Indian tribe has designated a portion of the funds appropriated for the tribe from funds appropriated under the Act of November 2, 1921 (25 U.S.C. 13) may be denied a contract for that portion under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 *et seq.*) (except as provided in that Act), or denied appropriate contract support to administer that portion of the appropriated funds.

(Authority: 20 U.S.C. 2397e)

PART 411—VOCATIONAL EDUCATION RESEARCH PROGRAM

Subpart A—General

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Subpart B [Reserved]